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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,797	01/11/2002	Joseph Pedziwiatr	29250/CE08185R	9106

22917 7590 09/07/2005

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EXAMINER

IQBAL, KHAWAR

ART UNIT PAPER NUMBER

2686

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/043,797	Applicant(s) PEDZIWIATR ET AL.	
	Examiner Khawar Iqbal	Art Unit 2686	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Argument*

1. The affidavit filed on July 11, 2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the McCormack et al. reference, because the 2<sup>nd</sup> paragraph "Prior to June 29,2001....." is just a statement without facts to support such statement.
2. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Beming et al. reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

The complete claimed invention was not conceived prior to the date of the Beming et al reference. Exhibit A or B fails to support all the limitations of claims 1-25. There is no support for example, wherein the first and second sets of redundant communication paths are adapted to simultaneously convey communications associated with a mobile communication device. Further, No evidence can be found that supports that Exhibit A or B exist before the filing date of Beming et al reference.

3. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Beming et al. reference to either a constructive reduction to practice or an actual reduction to practice. **Further, No evidence to show diligence between 06/28/2001 to 01/11/2002.**

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 19-21 are rejected under 35 U.S.C. 102(e) as being unpatentable by Beming et al (20030003919).

Regarding claim 19 Beming et al teaches a wireless communication system, comprising (figs. 2a, 2b): a core system (16); and a plurality of communicatively coupled radio access networks (26<sub>1</sub>, 26<sub>2</sub>) wherein each of the plurality of communicatively coupled radio access networks is adapted to establish redundant communication paths for a mobile device (30) and wherein each of the radio access networks is adapted to establish a radio access network session client associated with the redundant communication paths (para. # 0069-0073).

Regarding claim 20 Beming et al teaches wherein each of the plurality of communicatively coupled radio access networks is adapted to determine the integrity of its respective redundant communication paths for the mobile device (para. # 0069-0073).

Regarding claim 21 Beming et al teaches wherein each of the radio access networks includes a base transceiver station adapted to provide a communications

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bridging function between the mobile device and the radio access network session clients (para. # 0069-0073).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-18,22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuah (20030076803) and further in view of Beming et al (20030003919).

8. Regarding claim 1 Chuah teaches a wireless communication system, comprising (fig. 5):

a core system (104) adapted to establish a first set of redundant communication paths between the core system and respective first (108a) and second radio access network session clients (108b) associated with respective first and second locations within the wireless communication system (para. # 0028); and

a base transceiver station (106c) adapted to establish a second set of redundant communication paths (114c, 116c) between the base transceiver station (106c) and the respective first (108a) and second (108b) radio access network session clients (para. # 0028, 0011). Chuah does not specifically teach wherein the first and second sets of redundant communication paths are adapted to simultaneously convey communications associated with a mobile communication device.

In an analogous art, Beming et al teaches wherein the first and second sets of redundant communication paths are adapted to simultaneously convey communications associated with a mobile communication device (para. # 0069-0073, figs. 2a, 2b). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Chuah by specifically adding feature in order to enhance system performance simultaneously convey communications associated with a mobile communication device as taught by Beming et al.

Regarding claim 8 Chuah teaches a wireless communication system, comprising (fig. 5): a core system having a first bridging function adapted to establish a first set of redundant communication paths between the core system and a plurality of radio access network session clients (para. # 0028); and a base transceiver station having a second bridging function adapted to establish a second set of redundant communication paths between the plurality of radio access network session clients and the base transceiver station (para. # 0028). Chuah does not specifically teach wherein the first and second sets of redundant communication paths are adapted to simultaneously convey communications associated with a mobile communication device.

In an analogous art, Beming et al teaches wherein the first and second sets of redundant communication paths are adapted to simultaneously convey communications associated with a mobile communication device (para. # 0069-0073). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Chuah by specifically adding feature in

order to enhance system performance simultaneously convey communications associated with a mobile communication device as taught by Beming et al.

Regarding claim 15 Chuah teaches a wireless communication system, comprising (fig. 5): a core system; and a base transceiver station, wherein the core system and the base transceiver station are adapted to convey communications associated with a mobile communication device using a plurality of redundant communication paths and a plurality of redundant radio access network session clients (para. # 0028, 0011). Chuah does not specifically teach wherein the first and second sets of redundant communication paths are adapted to simultaneously convey communications associated with a mobile communication device.

In an analogous art, Beming et al teaches wherein the first and second sets of redundant communication paths are adapted to simultaneously convey communications associated with a mobile communication device (para. # 0069-0073). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Chuah by specifically adding feature in order to enhance system performance simultaneously convey communications associated with a mobile communication device as taught by Beming et al.

Regarding claim 22-25 Chuah teaches a method of reallocating a radio access network session client within a wireless communication system having a core system and a base transceiver station, the method comprising (fig. 5): establishing a redundant radio access network session client within the wireless communication system (para. # 0028); establishing a first set of redundant communication paths between the core

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system and the redundant radio access session client (para. # 0028); transferring control from the radio access network session client to the redundant radio access network session client (para. # 0028, 0011). Chuah does not specifically teach establishing a second set of redundant communication paths for the mobile device between the redundant radio access session client and the base transceiver station.

In an analogous art, Beming et al teaches establishing a second set of redundant communication paths for the mobile device between the redundant radio access session client and the base transceiver station (para. # 0069-0073). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Chuah by specifically adding feature in order to enhance system performance simultaneously convey communications associated with a mobile communication device as taught by Beming et al.

Regarding claims 2,9,16 Chuah teaches wherein the respective first and second locations are associated with respective first and second radio access networks (para. # 0028).

Regarding claims 3,11 Chuah teaches wherein the core system includes fixed equipment (fig. 1, elements 24,34).

Regarding claims 4,12 Chuah teaches wherein the first and second sets of redundant communication paths include control and bearer paths (para. # 0023,0028).

Regarding claim 6 Chuah teaches wherein the mobile communication device is a cellular phone (fig. 1, element 18b).



Regarding claims 7,14,18,20 Chuah teaches wherein one of the core system and the base transceiver station is adapted to determine the integrity of a communication path from the first and second sets of redundant communication paths (para. # 0028).

Regarding claim 10,17 Chuah teaches wherein the respective first and second locations within the wireless communication system are associated with respective first and second radio access networks (para. # 0028).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khawar Iqbal whose telephone number is 571-272-7909.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MARSHA D BANK-HAROLD can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

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